



U.S. Citizenship
and Immigration
Services

4-4

FILE:

Office: VERMONT SERVICE CENTER

Date:

AUG 04 2004

IN RE:

APPLICATION:

Application for Permission to Reapply for Admission into the United States after
Deportation or Removal under section 212(a)(9)(A)(iii) of the Immigration and
Nationality Act, 8 U.S.C. § 1182(a)(9)(A)(iii)

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to
the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

DISCUSSION: The Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen and reconsider. The motion will be denied and the previous decisions of the director and the AAO will be affirmed.

The applicant is a native and citizen of Guatemala who was present in the United States without a lawful admission or parole on August 1, 1994. On March 6, 1995, he was served with an Order to Show Cause. On July 18, 1995, an immigration judge ordered the applicant deported in absentia. The applicant has failed to depart. The applicant seeks permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii).

The director determined that the unfavorable factors in the application outweigh the favorable factors. The I-212 application was denied accordingly. *Decision of the Director*, dated December 18, 2002. The decision of the director was affirmed on appeal by the AAO. *Decision of the AAO*, dated June 12, 2003.

On motion to reopen and reconsider, the applicant submits a statement indicating that he has been in the United States for nine years. The applicant states that it would be an extreme hardship for him to return to Guatemala and that it was not his intention to disregard immigration law. *Motion to Reopen and Reconsider*, dated July 8, 2003. The entire record was reviewed and considered in rendering a decision on the appeal.

8 C.F.R. § 103.5(a)(2) (2002) states in pertinent part:

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.

8 C.F.R. § 103.5(a)(3) (2002) states in pertinent part:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service [now Citizenship and Immigration Services (CIS)] policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

8 C.F.R. § 103.3(v) (2002) states in pertinent part:

(v) Summary Dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.



Page 3

On motion to reopen and reconsider, the record does not contain any additional documentation and the applicant fails to identify any erroneous conclusion of law or statement of fact in his appeal. The motion will therefore be summarily dismissed.

ORDER: The motion is denied. The decision of June 12, 2003 dismissing the appeal is affirmed.